

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**USDC SDNY
DOCUMENT
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DOC #:
DATE FILED: 12-17-12**

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GERTRUDE C.F. HAMILTON,

Plaintiff-Appellant,

v.

MARK IV INDUSTRIES, INC., et al.,

Defendant-Appellee
-----X

Chapter 11 (CONFIRMED)

From no.: 09-12795(SMB)

Case No. 12-cv-03210 GBD

PRO SE CASE

**RESPONSE OF OPPOSITION TO APPELLEE MARK IV INDUSTRIES, INC. IN
OPPOSITION TO APPELLANT GERTRUDE HAMILTON'S MOTION FOR
ASSIGNMENT OF PRO BONO ATTORNEY**

Appellant Gertrude C. F. Hamilton ("Hamilton") hereby submits this response to Mark IV Industries, Inc. ("Mark IV") opposition (the "Opposition") to Appellant Gertrude C. F. Hamilton's Motion for Assignment of Pro Bono Attorney dated November 15, 2012 (the "Motion"), and "Opposition" dated December 3, 2012. In support of the "Motion" Hamilton respectfully states as follows:

1. By the Motion, Hamilton requests the appointment of pro bono counsel to assist in "finalizing Hamilton's claims" in the above-captioned chapter 11 case of Mark IV and its affiliated debtors. It appears procrastination and procedural errors denying justice as prolonged this appeal. This court failed to provide an order for several months on this appeal. Why would it take six months to provide an Order on appeal?

2. The Motion should be granted and, or an order issued to allow Hamilton to appeal to the 2nd Circuit Appeal's Court. Mark IV states "The Court's procedures for pro se cases instruct that, "[t]o apply for a pro bono attorney, [a pro se litigant] must...file an application with a supporting request to proceed in forma pauperis in a case already pending in the Court" and include in such application description of "what efforts, if any [the pro se litigant] ha[s] made to find a lawyer." However, Mark IV failed to acknowledge the Court's procedures for pro se cases include the responsibility for appropriate documents like orders must be provided to the pro se litigant; see Memorandum Decision and Order, In re Mark IV Indus., Inc., Case No. 11 Civ. 6758 (GBD) (S.D.N.Y. Sept 18, 2012). The docket will confirm procedural errors continue to deny justice to this pro se litigant "Hamilton" because the Memorandum Decision was never provided to Hamilton. Hamilton contacted numerous attorneys and paid thousand's of dollars for consultations; however, not all charged or where paid for services, less than half the contacts include; Stephen Preziosi, Jerry Graves, Tucker S. Player, Esquire, Derek T. Smith, Esq., The Fox Law firm, Bland and Richter, Karr & Allison, P.C., Center for Constitutional Rights, NAACP Legal Defense, Andrew S. Black, Lawyers' Committee for Civil Rights (Tanya Clay House), Andrew R. Miller, Esq., David J. Hernandez, Auciello Law Group, Brooks Law Firm, LLC, Lovic A. Brooks, III, Michael H. Zhu, Esq. PC, Katten Muchin Rosenman LLP (Michael Verde), and the most costly Arkady Bukh law firm. Hamilton can not afford justice when Arkady Bukh charges \$35,000.00 for a retainer, after she paid so much to them already for consultations.

3. Hamilton is requesting that a Pro Bono Attorney be assigned to her Appeals to expedite the process, insure clarity and justice. Hamilton is not trained nor does she own the appropriate equipment to provide transparency from court-to-court. Hamilton feels tortured by Mark IV and the lack of due process needs to be reviewed by an attorney. The last entry to this docket was 06/14/2012, this case needs attention and Hamilton deserves restitution because of Mark IV's default. Case No. 1:11-cv-06758 (GBD) is listed as related and should be reviewed for an Order. Multiple claims were also dismissed without litigation or jurisdiction by the bankruptcy court, please review Fed. R. App. P. 40(a)(2). See Fed. R. Bankr. P. 8006, March contains 31 days Mark IV failed to file a record timely.

4. Hamilton is entitled to relief from the rejected Orders and Opinions, pursuant to Federal Rule 60(d) (3) of Civil Procedures, because of Fraud on the 4th Circuit Court of Appeals. 18 U.S.C. § 152 requires that the acts be done "Knowingly and fraudulently." Many lies were submitted to the 4th Circuit court by attorneys; his or her conduct was undertaken voluntarily and intentionally and not because of mistake, accident, or other innocent reasons. Intent existed to defraud Hamilton and benefit Mark IV and the attorneys.

WHEREFORE, Hamilton prays the Court will review her case in light of the proof of blatant dishonesty and willful disregard for the law on the part of the defendants, vacate and, or reverse Orders, judgments, and Opinions, and issue an Order in Hamilton's favor requiring restitution be doubled or tripled. A Pro Bono attorney is needed to finalize Hamilton's claims; however, if claims are reviewed according to laws an Order should be issued in Hamilton's favor now and an assignment would not be

necessary. Hamilton respectfully request that the Court enter an order granting restitution on both appeals and further relief as may be just and proper. Because of 11 U.S.C. § 707(b)(3) "totality of the circumstances" of this case demonstrated abuse and an Order is requested dismissing this Chapter 11.

Trusting in GOD,

A handwritten signature in black ink, appearing to read "Gertrude C. Hamilton", written over a horizontal line.

Gertrude Coretta Fennell Hamilton

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December 15, 2012

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing **RESPONSE OF OPPOSITION TO APPELLEE MARK IV INDUSTRIES, INC. IN OPPOSITION TO APPELLANT GERTRUDE HAMILTON'S MOTION FOR ASSIGNMENT OF PRO BONO ATTORNEY** has been furnished to those listed below via the United States Postal Service and or FedEx Express.

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(1) in the self addressed envelope with
prepaid postage.

Honorable George B. Daniels (GBD)
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Dated this 15th day of December, 2012

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1 From

Date

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Name

Gertrude Hamilton

Phone

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Company

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99 Elmwood St

Dept./Floor/Suite/Room

City

Walterboro

State

SC

ZIP

29488

2 Your Internal Billing Reference

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One box must be checked.

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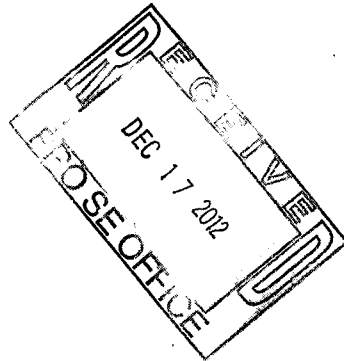
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